

ARKANSAS SUPREME COURT

No. CR 07-1267

RONALD D. McJAMES

Petitioner

v.

STATE OF ARKANSAS

Respondent

Opinion Delivered January 24, 2008

PRO SE MOTION FOR RULE ON
CLERK [CIRCUIT COURT OF
PULASKI COUNTY, CR 2002-1805]

MOTION DENIED.

PER CURIAM

Petitioner Ronald D. McJames brings this motion for rule on clerk under Ark. Sup. Ct. R. 2-2. Petitioner does not, however, contend that our clerk has rejected a record that was tendered late. Instead, he asserts that our clerk erroneously refused to file a pro se pleading tendered as a petition for writ of certiorari. Our clerk did not err in refusing to file petitioner's petition for writ of certiorari and we decline petitioner's request that we direct the clerk to accept the petition for filing.

A judgment entered in Pulaski County Circuit Court on August 19, 2003, reflects that petitioner entered a negotiated plea of guilty to capital murder and received a sentence of life imprisonment without parole. In the pleading tendered to this court, petitioner asserts a lack of jurisdiction because he was denied due process and a fair trial as a result of a number of alleged errors in the proceedings in the circuit court. His petition attacks the judgment against him on a number of bases, including ineffective assistance of counsel, and seeks relief through this court's review of the proceedings.

Extraordinary relief is not a substitute for an appeal. *Gran v. Hale*, 294 Ark. 563, 745 S.W.2d 129 (1988). Our standard of review includes two requirements that must be satisfied in order

for this court to grant a writ of certiorari. *Helena-West Helena Sch. Dist. # 2 of Phillips County v. Circuit Court of Phillips County*, ___ Ark. ___, ___ S.W.3d ___ (Mar. 15, 2007). The first requirement is that there can be no other adequate remedy but for the writ of certiorari. Second, a writ of certiorari lies only where (1) it is apparent on the face of the record that there has been a plain, manifest, clear, and gross abuse of discretion, or (2) there is a lack of jurisdiction, an act in excess of jurisdiction on the face of the record, or the proceedings are erroneous on the face of the record. *Id.*

Here, petitioner's tendered pleading was returned to him unfiled, with a letter from a staff attorney indicating that this court does not review a judgment of conviction by means of a petition for writ of certiorari. Under the first requirement, certiorari is available only where there is no other adequate remedy. Thus, a petition for writ of certiorari is not an appropriate means to obtain the review petitioner seeks. Review of proceedings resulting in a judgment of conviction may be properly sought through direct appeal or a timely petition for postconviction relief under Ark. R. Crim. P. 37.1. Our clerk did not err in rejecting the pleading.

Finally, there is no merit to petitioner's claims alleging violations of Ark. Sup. Ct. R. 5-2 and Ark. Sup. Ct. R. 5-3. Rule 5-2 is not applicable because the prior pleading was properly rejected for filing by our clerk, without opinion. Likewise, Rule 5-2 does not require that an opinion be signed, as petitioner asserts, or that an opinion issue. Rule 5-3 is also not applicable because no appeal was taken from a circuit court decision.

Motion denied.